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SEXUALLY ORIENTED BUSINESSES

1. Purpose and findings.

A. Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations applicable thereto. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material. It is a purpose of this ordinance to protect the citizenry from the detrimental secondary effects caused by sexually oriented businesses.

B. Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Town Council, and on findings incorporated in such cases as *Town of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma Town, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities. Thus, the town desires to make the owners of these establishments responsible for the activities that occur on their premises.
2. Certain employees of sexually oriented businesses defined in this ordinance as adult theaters and cabarets engage in higher incidence of certain types of illicit behavior than employees of other establishments.
3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

4. Offering and providing such space encourages such activities, which creates unhealthy conditions.
5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.
7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982; 2,200 in 1983; 4,600 in 1984; 8,555 in 1985; 253,448 in 1992; and 621,329 as of August 31, 1997.
8. As of September 26, 1997, there are 1,467 reported cases of AIDS in the state of Utah.
9. Since 1981 to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody in Utah.
10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.
11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.
12. The office of the surgeon general of the United States, in a report dated October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
14. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
15. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult-oriented films.

16. The findings noted in subsections (B)(1) through (15) of this section raise substantial governmental concerns.

17. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

18. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business and is in possession and control of the premises and the activities occurring in them.

19. Prohibiting doors or similar partition on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

20. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

21. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

22. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this ordinance is designed to prevent or who are likely to be witnesses to such activity.

23. That an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.

24. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

25. The general welfare, health, morals, and safety of the citizens of the town will be promoted by the enactment of this ordinance.

2. Definitions.

A. "Adult arcade" means any place to which the public is permitted or invited in which electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices, whether coin-operated, slug-operated, or operated for any form of consideration, are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

B. "Adult bookstore," "adult novelty store," or "adult video store" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
2. Instruments, devices, or paraphernalia which are designed or marketed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. It shall constitute a principal business purpose if the establishment has gross receipts of over 20 percent from such materials.

C. "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear in a state of dress that covers no more than the specified anatomical areas;
2. Live performances or dancers whose attire covers no more than the specified anatomical areas; or
3. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

D. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

E. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of dress that covers no more than the specified anatomical areas, or live performances or dancers whose attire covers no more than the specified anatomical areas.

F. "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not the person is paid a salary, wage, or other compensation by the operator of the business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

G. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.

H. "Escort agency," also known as an "outcall service," means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

I. "Establishment" means and includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The addition of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

J. "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

k. "Sexually oriented business" includes, but is not limited to, an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, or escort agency.

L. "Specified anatomical areas" means:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

M. "Specified criminal activity" means any offense, regardless of title, involving the following:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries; for which:
 - a. Less than three years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - b. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 36- month period.
2. That a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

N. "Specified sexual activities" means any of the following offenses:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

3. Excretory functions as part of or in connection with any of the activities set forth in subsections (N)(1) and (2) of this section.

O. "Substantial enlargement" of a sexually oriented business means the increase in inventory or floor areas occupied by the business by more than 10 percent, as the floor areas exist on the date the ordinance codified in this ordinance takes effect.

P. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;

2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, including transfer by bequest or other operation of law, upon the death of the person possessing the ownership or control.

3. Classification.

Sexually oriented businesses are classified as follows:

A. Adult arcades;

B. Adult bookstores, adult novelty stores, or adult video stores;

C. Adult cabarets;

D. Adult motion picture theaters;

E. Adult theaters; and

F. Escort agencies.

4. License required.

A. It is unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town pursuant to this title.

2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the town pursuant to this ordinance.

3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this ordinance.

B. An application for a license must be made on a form provided by the town license official.

C. All applicants must be qualified according to the provisions of this title. The application may request and the applicant shall provide such information (including fingerprints) as to enable the town to determine whether the applicant meets the qualifications established in this title.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person that has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is 18 years of age;

b. A partnership, the partnership shall state its complete name, and the names of all general partners, whether the partnership is general or limited; if it is a limited partnership, the principal limited partners legally or equitably holding 20 percent or more of any class of interest or of the voting, capital, or income interests in the limited partnership, the name of the registered agent and the address of the registered office for service of process, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capatown of all officers, directors, and principal stockholders legally or equitably holding 20 percent or more of any class of stock or of the voting rights in the corporation, and the name of the registered corporate agent and the address of the registered office for service of process;

d. A limited liability company, the company shall state its complete name, the date of its organization, evidence that the company is in good standing under the laws of its state of organization, the names and capatown of all members with management authority, managers, officers, directors, and principal members legally or equitably holding 20 percent or more of any class of interest or of the voting, capital, or income interests in the company, and the name of the registered agent and the address of the registered office for service of process;

e. Any other form of unincorporated organization, the organization shall state its type of organization, its state of organization, complete name, the names of all associates, members, or if there are more than 100 of them, principal associates or members legally or equitably holding 20 percent or more of any class of interest or of the voting, capital, or income interests in the organization, the names and capatown of all associates or members with management authority, managers, officers, directors, and fiduciaries, and the name of the registered agent and the address of the registered office for service of process, and a copy of any organizational documents.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business's fictitious name and submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, or any person described in subsection (4)(E)(1) of this section with respect to the applicant, has had a previous license under this title, or other similar sexually oriented business ordinances from another town or county, denied, suspended, or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant or any person described in subsection (4)(E)(1) of this section with respect to the applicant, has been (a) a general partner or principal limited partner in a partnership or (b) an officer, director, or principal stockholder of a corporation or (c) a manager, member with management authority, officer, or principal member of a limited liability company or (d) an officer, director, fiduciary, associate or member with management authority, manager, or principal associate or manager of any other unincorporated organization, that is or was licensed under this title whose license has previously been denied, suspended, or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended, or revoked as well as the date of the denial, suspension, or revocation.

5. Whether the applicant, or a person residing with the applicant or any person described in subsection (4)(E)(1) of this section with respect to the applicant, holds any other licenses under this title or other similar sexually oriented business ordinance from another town or county and, if so, the names and locations of such other licensed businesses.
6. The single classification of license for which the applicant is filing.
7. The location of a proposed sexually oriented business, including a legal description of the property, street address, town, and telephone number(s), if any.
8. The applicant's mailing address and residential address and this same information with respect to any person described in subsection (4)(E)(1) of this section with respect to the applicant.
9. A recent photograph of the applicant(s) (if individuals) and of any persons described in subsection (4)(E)(1) of this section with respect to the applicant.
10. The applicant's driver's license number, Social Security number, and state or federally issued tax or employer identification numbers, and this same information with respect to any person described in subsection (4)(E)(1) of this section with respect to the applicant.
11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
12. A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the proper lines and the structures containing any existing sexually oriented businesses within 2,500 feet of the property to be certified; the property lines of any established church, religious institution, or synagogue, school, or public park or recreation area within 2,500 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
13. If an applicant wishes to operate a sexually oriented business, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, videocassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth herein.

14. If the property on which the sexually oriented business is to be located is owned by any person or entity other than the applicant, the applicant shall submit a letter, signed by the owner, stating that the applicant has fully disclosed to the owner that the business to be operated is a sexually oriented business, and that the type and nature of the inventory has also been disclosed.

F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the town license official the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
2. Age, date, and place of birth;
2. Height, weight, hair and eye color;
4. Present residence address and telephone number;
5. Present business address and telephone number;
6. Date, issuing state, and number of driver's permit or other identification card information;
7. Social Security number; and
8. Proof that the individual is at least 18 years of age.

G. Attached to the application form for a sexually oriented business employee license, as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
2. A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, town, state, or country, any other sexually oriented business, has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

3. A statement whether the applicant has been convicted of a specified criminal activity and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

5. Issuance of license.

A. Employee License. Upon the filing of an application for a sexually oriented business employee license, the application shall be referred to the appropriate town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed. After the investigation, the town shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
2. The applicant is under the age of 18 years;
3. The applicant has been convicted of a specified criminal activity, as defined in this ordinance;
4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this title; or
5. The applicant has had a sexually oriented business employee license revoked by the town within three years of the date of the current application. However, if the revocation was based on a criminal conviction, no application will be accepted for five years from the termination of all probation, formal or informal, and all other sentencing conditions. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in this ordinance and title.

B. Sexually Oriented Business License. Within 30 days after receipt of a completed sexually oriented business application, the town shall complete its investigation and shall approve or deny the issuance of a license to an applicant. The town shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is under 18 years of age.

2. An applicant or a person with whom applicant is residing is overdue in payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business.

3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

4. An applicant or a person with whom the applicant is residing has been denied a license by the town to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity.

6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building and zoning officials as being in compliance with applicable laws and ordinances.

7. The license fee required by this title has not been paid.

8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of the town's ordinances, or of state law.

C. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the town that the applicant has not been convicted of any specified criminal activity or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of a fee as described in this ordinance.

D. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to section 3. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

E. The health department, fire department, and the building and zoning officials shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the town.

F. A sexually oriented business license shall issue for only one classification as found in section 3 of this ordinance..

G. In order to be qualified for the issuance of any license or permit under this ordinance, the applicant must meet all the requirements of this title for a business license unless specifically provided otherwise in this ordinance.

H. The Town Council shall not grant a license under this ordinance where the applicant, any corporation or other person that in whole or in part manages the applicant or its licensed operations, or any proprietor, officer, director, partner, limited liability company member with management authority, or managing agent of the applicant, or of any corporation or other person that manages the applicant, has been convicted of specified criminal activity.

I. In the case of a person other than an individual, the commission of specified criminal activity or any other event (such as a license revocation) with respect to that person relevant for purposes of this ordinance shall be deemed to have been committed by or occurred with respect to such person if such person itself or any partner, limited liability company member with management authority, managing agent, officer, director, or stockholder who holds at least 20 percent of the total issued and outstanding stock of any class of an applicant corporation or 20 percent of the voting, capital, or income interest of an applicant partnership, limited liability company, or other unincorporated business organization, has been convicted of any specified criminal activity or has had occur with respect to him or her any event relevant for purposes of this ordinance.

J. Upon the arrest of any proprietor, officer, director, partner, limited liability company member with management authority, or managing agent of a licensee or of any corporation or other person that manages the licensee, on any charge for specified criminal activity, the town may take emergency action by immediately suspending the operation of the licensee for the period during which the criminal matter is being adjudicated.

K. If any such person is convicted of specified criminal activity subsequent to the issuance of the license, the license shall be surrendered immediately. The licensee may request a hearing on the matter, in writing and within 10 days of a conviction by a trial court.

L. The Town Council shall not grant a license under this ordinance to any applicant where the applicant, any corporation or other person that manages the applicant, or any proprietor, officer, director, partner, limited liability company member with management authority, or managing agent of an applicant or of any corporation or other person that manages the applicant had any type of license issued under this ordinance revoked within the last three years.

M. Subsequent to the issuance of a particular license, any revocations of any type of license issued under this ordinance with respect to any person described in subsection L of this section shall disqualify the holder of the particular license issued. If any person or entity to whom a license has been issued under this ordinance no longer possesses

the qualifications required by this ordinance for obtaining that license, the town may suspend or revoke that license.

N. If, during the term of the license after the license has been granted under this ordinance, there shall be any change in the identity of any of the persons referred to in this section, the licensee shall forthwith report in writing any such changes to the license official.

O. Sexually oriented businesses may not be established within 2,500 feet of any public or private school, church, public library, public playground, school playground, or park (a "restricted facility") as measured from the nearest entrance of the business premises by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer to the property boundary of the restricted facility.

6. Fees.

A. Every application for a sexually oriented business license, whether for a new license or for renewal of an existing license, shall be accompanied by a nonrefundable application and investigation fee of \$3,000.

B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the town an annual license fee of \$1,500 within 30 days of license issuance or renewal.

C. Every application for a sexually oriented business employee license, whether for a new license or for renewal of an existing license, shall be accompanied by an annual non-refundable application, investigation, and license fee of \$300.00.

D. All license applications and fees shall be submitted to the license official of the town.

E. All fees required under this ordinance are in addition to any other fees under this title.

7. Inspection.

A. An applicant or licensee shall permit representatives of the police department, health department, fire department, license office, or other town departments or agencies, including any officials providing these services for the town, to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

B. A person who operates a sexually oriented business or an agent or employee of it commits a Class B misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

8. Expiration of license.

A. Each license under this ordinance shall expire at the same time as other business licenses under this title and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

B. When the town denies renewal of license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

9. Suspension.

The town shall suspend a license for a period of not less than 10 days nor more than 30 days if it determines that a licensee or an employee of a licensee has:

A. Violated or is not in compliance with any section of this title or is no longer entitled to the license under the provisions of this ordinance;

B. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance.

10. Revocation.

A. The town shall revoke a license if cause of suspension in EMMC 5.20.090 occurs and the license has been suspended within the preceding 12 months.

B. The town shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;

2. A licensee knew, or should have known, that possession, use, or sale of controlled substances occurred on the premises;

3. A licensee knew, or should have known, that prostitution occurred on the premises;

4. A licensee knew, or should have known, the sexually oriented business operated during a period of time when the licensee's license was suspended;

5. A licensee knew, or should have known, that any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act occurred in or on the licensed premises;

6. A licensee knew, or should have known, that obscene materials, child pornography in any form, or any other contraband is on the licensed premises;

7. A licensee is delinquent in payment to the town, county, or state for any taxes or fees past due; or

8. A licensee is no longer entitled to the license under the provisions of this ordinance.

C. When the town revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the town finds that there are substantial mitigating factors, or substantial corrective measures have been employed by the licensee, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. An example of substantial mitigating factors would be the willful acts of an employee or customer disregarding the directions of the licensee. An example of substantial corrective measures would be the termination of an offending employee or prohibiting the return of an offending patron.

D. If any licensee has a license revoked three times within any five-year period, the licensee will be precluded from regaining any such license.

E. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may appeal the decision to the Town Council. Any such appeal shall be in writing and submitted to the office of the town's license official within 10 days of the decision. The Town Council may review the matter on the record or may conduct a hearing in the manner. The Town Council may affirm, reverse, or modify the decision. The Town Council shall issue a decision within 30 days of receiving the appeal. An appeal after that shall be to the district court for judicial review. Unless either party obtains an injunction or mandamus, the status quo ante will be maintained during the appeal process; however, additional enforcement actions will not be precluded.

11. Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

12. Location of sexually oriented businesses – Penalty.

It is a Class C misdemeanor for any person to operate or cause to be operated a sexually oriented business in a zoning district other than in a zone that specifically permits such use.

13. Regulations pertaining to exhibition of sexually explicit films or videos in viewing rooms.

A. A person who operates or causes to be operated a sexually oriented business, which exhibits on the premises in a viewing room of less than 150 square feet of floor space a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place to which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The town may waive the diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the town.
4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms shall not contain video reproduction equipment nor shall any video be viewed from within the restrooms. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron

is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the licensee to ensure that the view area specified in subsection (A)(5) of this section remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (A)(1) of this section.

7. No viewing room may be occupied by more than one person at a time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place in which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level.

9. It shall be the duty of the licensee to ensure that the illumination described in subsection (A)(8) of this section is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, without rugs or carpeting.

14. The licensee shall cause all floor or wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within 48 inches of the floor.

B. It is a Class B misdemeanor for a person having a duty under subsections (A)(1) through (14) of this section to fail to fulfill that duty.

14. Additional regulations for escort agencies.

- A. An escort agency shall not employ any person under the age of 18 years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.
- C. No activity or service by any escort shall be performed on the escort agency's premises.
- D. The restrictions also apply to the conduct of the employee during the period of time that the escort service is provided, regardless of location.

15. Additional regulations concerning licensee employees.

It is unlawful for any physical contact between employee licensees and any other person during the performance of the licensee's employment responsibilities.

16. Prohibition against children in a sexually oriented business.

A person commits a misdemeanor if the person allows another under the age of 18 years on the premises of a sexually oriented business. A licensee has an affirmative obligation to ensure that no person on the premises is under the age of 18.

17. Hours of operation.

No sexually oriented business may remain open at any time between the hours of 1:00 a.m. and 1:00 p.m.

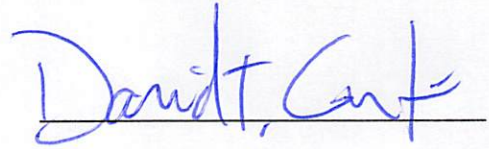
18. Injunction – Penalty.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this code is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. A violation of this ordinance is a Class B misdemeanor and is punishable as such.

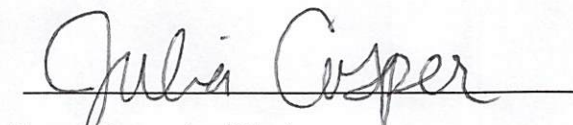
19. Effective Date

This ordinance shall become effective upon approval and posting.

Passed by the majority vote of the Town Council of the Town of Cedar Fort this 13th day of August 2020.


Mayor

Attest:


Town Recorder/Clerk

Mayor David Gustin

Voted Yea (DG)

Councilmember Ellen Cibula

Voted _____

Councilmember Wyatt Cook

Voted yea WC

Councilmember Laura Ault

Voted _____

Councilmember Rett Messersmith

Voted yea RM

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, JULIA COSPER, Town Recorder of Cedar Fort Town, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the Town Council of Cedar Fort Town, Utah, on the 13 day of August 2020 entitled

"SEXUALLY ORIENTED BUSINESSES" ORDINANCE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Cedar Fort Town Utah this 13 day of August 2020.


JULIA COSPER

Cedar Fort Town Recorder

(SEAL)



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UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE

CHIEF OF BUREAU

CHIEF OF BUREAU

The following is a list of the names of the persons who have been
admitted to the Bureau of the Department of Justice, and who have
been assigned to the various divisions of the Bureau.

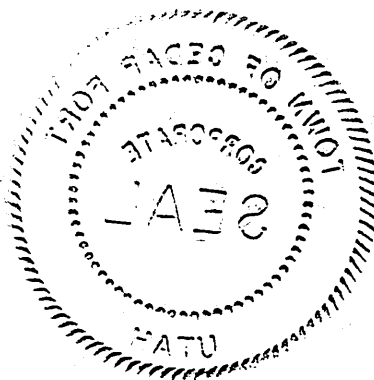
THE FOLLOWING IS A LIST OF THE NAMES OF THE PERSONS WHO HAVE BEEN

ADMITTED TO THE BUREAU OF THE DEPARTMENT OF JUSTICE, AND WHO HAVE
BEEN ASSIGNED TO THE VARIOUS DIVISIONS OF THE BUREAU.

[Handwritten signature]

RECEIVED

DEPT. OF JUSTICE



STATE OF UTAH)
) ss.
COUNTY OF UTAH)

“SEXUALLY ORIENTED BUSINESSES” ORDINANCE

The above named ordinance was enacted to define and describe the requirements, limitations and restrictions on establishing sexually oriented businesses within the Town of Cedar Fort. Definitions and categories are presented. Prohibited and restricted uses are detailed.

The three places are as follows:

1. Post Office
2. Town Hall
3. Cedar Valley Store

Julia Cospir

Cedar Fort Town Recorder

Date of Posting 8/25/2020